IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8317 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DHIRAJLAL CHATRABHUJ KHATRI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8317 of 2001

MS SUBHADRA G PATEL for Petitioner No. 1

MR DP JOSHI, AGP, for Respondents No. 1-3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 09/01/2002

ORAL JUDGEMENT

1. The District Magistrate, Rajkot, passed an order on the 16th July, 2001, in exercise of powers under Section 3(2) of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act" for short), detaining

the petitioner under the provisions of the said Act.

2. The detaining authority took into consideration three registered offences against the petitioner and branded him as a bootlegger. The detaining authority observed that the petitioner is required to be immediately prevented from pursuing his activities, which are detrimental to public order. The authority also considered the possibility of resorting to less drastic remedies and came to a conclusion that detention under PASA Act is the only remedy that can be resorted to.

3. Learned advocate for the petitioner, Ms. Patel assails this order only on the ground of delay in passing the order. The last offence is related to the 8th April, 2001 and the order is passed on the 16th July, 2001 and, therefore, there is no livelink. She, therefore, urged that the petition may be allowed.

4. Mr. S.S. Patel, learned Assistant Government Pleader, has opposed this petition.

5. There is no dispute about the factual aspects. The offences which are relied upon by the detaining authority as a ground for detention are old. The last office is of 08.04.2001 and, therefore, it is a stale incident which cannot form a valid ground for detention as there is no livelink between the activities of the detenu and the order of detention. The petition, therefore, deserves to be allowed on this ground alone.

6. In the result, the petition is allowed. The impugned order of detention dated the 16th July, 2001, passed against the detenu is hereby quashed and set aside. The detenu-Dhirajlal Charabhuj Khatri is ordered to be set at liberty forthwith, if not required in any other case. Rule is made absolute with no orders as to costs.

7. Direct service is permitted.

[A.L. DAVE, J.]

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